



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,880	08/21/2001	Paul G. Allen	4000.2.71	6364

32641 7590 08/12/2005

DIGEO, INC C/O STOEL RIVES LLP
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
----------	--------------

2611

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,880

Applicant(s)

ALLEN ET AL.

Examiner

Christopher M. Lambrecht

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date .
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

-or-

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-3, 7, 10, 11, 13, 21-24, 28, 30, 31, 33, 41, 42, and 43** are rejected under 35

U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,706,388 to Isaka (hereinafter “Isaka”).

Regarding **claims 1 and 41**, Isaka discloses a method in an interactive television system for mitigating interruptions during television viewing, the method comprising:

receiving a television signal from a signal source (col. 2, ll. 60-65 and col. 3, ll. 37-41);

displaying the television signal on a television (col. 2, ll. 55-60);

detecting an incoming telephone call on a telephone line coupled to the interactive television system (col. 3, ll. 8-15);

automatically buffering the television signal (col. 3, ll. 10-21);

detecting a user answering the telephone call (col. 3, ll. 8-15);

in response to the telephone call being terminated, playing back the television signal being buffered (col. 3, ll. 22-36).

Regarding **claims 21, 42, and 43**, Isaka discloses an interactive television system for mitigating interruptions during television viewing, the system comprising:

Art Unit: 2611

a tuner that receives a television signal from a signal source (col. 2, ll. 60-65 and col. 3, ll. 37-41, where a television receiver inherently comprises a tuner);

a video controller that displays the television signal on a television (col.2, ll. 55-60);

a detection component that detects an incoming telephone call on a telephone line coupled to the interactive television system (col. 2, ll. 46-52 and col. 3, ll. 8-15);

a buffering component that automatically buffers the television signal (col. 3, ll. 8-15);

a playback component that, in response to the telephone call being terminated, automatically plays back the television signal being buffered (col. 3, ll. 22-36).

As to **claims 2 and 22**, Isaka discloses the system and corresponding method of claims 1 and 21, wherein the interactive television system is coupled to a telephone line (see fig. 1), and wherein the detection component detects an incoming telephone call on the telephone line (col. 2, ll. 46-52).

As to **claims 3 and 23**, Isaka discloses the system and corresponding method of claims 1 and 22, wherein the detection component comprises a ring detector that detects a ring signal on the telephone line (col. 2, ll. 46-52).

As to **claim 24**, Isaka discloses the system of claim 22, wherein the detection component comprises an off-the-hook detector that detects an off-the-hook condition on the telephone line (col. 3, ll. 8-15).

As to **claims 7 and 28**, Isaka discloses the system and corresponding method of claims 1 and 21, wherein the detection component detects a user answering the telephone call, the system further comprising (col. 3, ll. 9-15).

As to **claims 10 and 30**, Isaka discloses the system and corresponding system of claims 1 and 21, wherein the detection component detects a user answering the telephone call (col. 3, ll. 9-15), the system further comprising:

Art Unit: 2611

a playback component that, in response to detecting the telephone call being terminated, plays back the television signal being buffered from a point in time at which the telephone call was detected (col.3, ll. 22-36).

As to **claims 11 and 31**, Isaka discloses the system and corresponding method of claims 1 and 21, further comprising:

a playback command that, in response to a user command, plays back the television signal being buffered while the telephone call is in progress (col. 4, ll. 8-11).

As to **claims 13 and 33**, Isaka discloses the system and corresponding method of claims 1 and 21, further comprising:

a playback component that automatically plays back the television signal being buffered in response to the telephone call being terminated (col. 3, ll. 21-36) and, during automatic playback of the buffered television signal, resumes display of a real-time television signal from the signal source in response to a user command (col. 3, ll. 37-51).

3. **Claims 1, 6, 8, 9, 15, 16, 19, 21, 27, 29, 35, 36, and 39** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. US 2002/0172330 A1 to Brunelle et al. (hereinafter "Brunelle").

Regarding **claims 1 and 21**, Brunelle discloses an interactive television system for mitigating interruptions during television viewing, the system comprising:

a tuner that receives a television signal from a signal source (cable box, satellite receiver, etc...

¶0020);

a video controller that displays the television signals on a display device (call manager, ¶0021);

a detection component that detects an incoming telephone call at the interactive television system (¶0039); and

Art Unit: 2611

a buffering component that automatically buffers the television signal for subsequent playback after the television call is terminated (§§0040,59).

As to **claims 6 and 27**, Brunelle discloses the system and corresponding method of claims 1 and 21, wherein the buffering component automatically buffers the television signal in response to detecting the incoming telephone call (§§0039,40).

As to **claims 8 and 29**, Brunelle discloses the system and corresponding method of claims 1 and 21, wherein the detection component detects a user answering the telephone call (§0054), the system further comprising:

a playback component that, in response to detecting the telephone call being terminated, plays back the television signal being buffered from a point in time at which the telephone call was detected (§§0055,6).

As to **claim 9**, Brunelle discloses the method of claim 8, wherein detecting a user answering the telephone call comprises detecting an off-the-hook condition on a telephone line coupled to the interactive television system (§0059).

Regarding **claims 15 and 35**, Brunelle discloses an interactive television system for mitigating interruptions during television viewing and corresponding method, comprising:

a tuner that receives a television signal from a signal source (cable box, satellite receiver, etc... §0020);

a video controller that displays the television signals on a display device (call manager, §0021);

a detection component that detects an outgoing telephone call (where all telephone calls are inherently outgoing with respect to the caller) at the interactive television system (§0039); and

a buffering component that automatically buffers the television signal for subsequent playback after the television call is terminated (§§0040,59).

Art Unit: 2611

As to **claims 16 and 36**, Brunelle discloses the system and corresponding method of claims 15 and 35, wherein the interactive television system is coupled to a telephone line (see fig. 3), and wherein the detection component comprises an off-the-hook detector that detects an off-the-hook condition on the telephone line (**¶0059**).

As to **claims 19 and 39**, Brunelle discloses the system and corresponding method of claims 15 and 35, further comprising:

a playback component that, in response to detecting the telephone call being terminated, plays back the television signal being buffered from a point in time at which the telephone call was detected (**¶¶0055,6**).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 12, 14, 20, 32, 34, and 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Isaka.

Regarding **claims 12, 20, 32, and 40**, Isaka discloses the system and corresponding method of claims 1 and 21, but fails to disclose an encoder that encodes the television signal; and a storage device that stores the encoded video signal.

Official notice is taken of the fact that it is well known in the art to employ an encoder and associated storage device for encoding and storing a received television signal, for the benefit of increasing the amount of program material that can be stored on said storage device.

Art Unit: 2611

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Isaka to include an encoder that encodes the television signal; and a storage device that stores the encoded video signal, for the benefit of increasing the amount of program material that can be stored on said storage device.

Regarding **claims 14 and 34**, Isaka discloses the system and corresponding method of claims 13 and 33, but fails to disclose the playback component plays back the buffered television signal at a modified rate in response to a transport control.

Official notice is taken of the fact that it is well known in the art to provide transport controls (e.g., fast-forward, fast-reverse, etc...) on a recording device, enabling the user to play back stored material at a modified rate, for the benefit of enabling the user to skip undesired program material.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Isaka to include the playback component plays back the buffered television signal at a modified rate in response to a transport control, for the benefit of enabling the user to skip undesired program material.

6. **Claims 4, 5, 17, 18, 25, 26, 37 and 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelle.

Regarding **claims 4, 5, 17, 18, 25, 26, 37 and 38**, Brunelle discloses the system and corresponding method of claims 1, 15, 21, and 35 but fails to disclose the detection component detects an Internet-based telephone call, and wherein the Internet based telephone call comprises a voice-over-IP (VoIP) call.

Official notice is taken of the fact that Internet based VoIP calling systems, including call detection means are well known in the art, for the benefit of enabling long-distance service without requiring a long-distance telephone service provider.

Art Unit: 2611

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Brunelle to include the detection component detects an Internet-based telephone call, and wherein the Internet based telephone call comprises a voice-over-IP (VoIP) call, for the benefit of enabling long-distance service without requiring a long-distance telephone service provider.

Art Unit: 2611

Conclusion

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Art Unit: 2611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht
Examiner
Art Unit 2611

CML



HAI TRAN
PRIMARY EXAMINER